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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,954	12/28/2000	David Hagen	4681-006	7523
24112	7590	05/28/2004		
COATS & BENNETT, PLLC P O BOX 5 RALEIGH, NC 27602				
			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER
DATE MAILED: 05/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,954

Applicant(s)

HAGEN ET AL.

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/24/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group I, consisting of claims 19-34 received on 4/9/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 1-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Currently claims 19-34 are pending for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 32 recites the limitation " wherein accepting an incoming call with information about an advertisement a potential customer was watching comprises accepting an incoming call with channel and timestamp information " . There is insufficient antecedent basis for the terms " with channel and timestamp information" as the limitation of claim 25, of which claim 32 is a dependency, does not have any

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reference or shows no relationship to any TV channel and timestamp. Claim 25 is directed to watching an advertisement (Note: the claim does not recite the use of TV) and interactive communication via videophone. Therefore the terms " with channel and timestamp information" render claim 32 unclear and indefinite. Claim 33 is also rejected based on the same rationale.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-23, 25-28, 31 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Randle (US Patent 5,899,982).

Regarding claim 19, Randle teaches an interactive sales process comprising:

displaying an advertisement on a remote unit (see at least col.6, lines 17-23, "As shown in FIGS. 2A and 2B, the customer operable transceiver screen displays may be controlled by a PC at the customer operable transceiver location. The bank can choose to have advertisements and/or other information about the bank displayed on the screens for customer attraction purposes. ". Note: the screen corresponds to a remote unit as recited in the application);

inducing a customer to actuate a remote control device to connect the remote unit to a remotely positioned sales agent through the remote unit (see at least col.6, lines 32-44, " It is also a feature of the invention that when the customer registers his/her request for a

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connection by video with a banker, The customer may register his/her request for a connection by video with the **banker** by a variety of means, including the pressing of an area or "**button**" on a **touch screen, pressing a key on a keyboard** connected to the customer operable transceiver, by voice, and other means known in the art. ". Note: the button on the touch screen or a key on the key pad corresponds to a remote control device and the banker to a positioned sales agent);

establishing a two way audiovisual communication link between the sales agent and the customer (see at least col.7, lines 10-25, " In the system of the invention, once the banker is available, the request for video connection is directed to the banker and a video connection is made by the banker to the corresponding customer operable transceiver so that a live connection may be established by the banker through the access gateway, and if the customer operable transceiver is so equipped, a two-way video conference between the customer and the banker can take place. If a predetermined period of time passes before a banker is available to take the video call, the call will be directed over other communications link 68 to another banker TB who does not have video access but who can talk to the customer and see if the customer's needs can be handled by voice telephony or audio through the access gateway. This banker TB is typically one of a plurality of bankers with voice access.", and col.7, lines 43-48, " This video connection also contains audio so that the banker and customer can talk to each other about various financial services, products and information if the customer's customer operable transceiver is so equipped. ".); and

presenting content originating with the sales agent on the remote unit for viewing by the customer to promote a sale (see at least col.7, lines 43-56, "This video connection also contains audio so that the banker and customer can talk to each other about various financial services, products and information if the customer's customer operable transceiver is so equipped. Once introductions of the banker is made over the video connection, the banker can cause information to appear on the display screen 36 of the customer operable transceiver. This information may include a

variety of financial services, products, and information available to the customer, and may even be an image of a loan application or other document that is specific to a transaction that the customer would like to pursue. "

Regarding claim 20, Randle discloses that the method of claim 19 wherein presenting content originating with the sales agent comprises presenting a video image of the sales agent on the remote unit (see at least col.7, lines 26-39).

Regarding claim 21, Randle discloses that the method of claim 19 wherein presenting content originating with the sales agent comprises presenting an audio signal from the sales agent and a genie video representation of the sales agent (see at least col.26-48, "*Once the video connection is enabled, an interactive video of the banker is shown on a portion, or possibly all, of the display screen 36 at the customer operable transceiver. FIG. 4 shows a display screen 36 at the customer operable transceiver with a video of a banker shown on a portion of the display screen 36. It is preferable that the respective videos of the banker and of the customer are shown on the periphery or in a corner of the respective display screen and that it does not take up more than about 1/4 of the area of the display screen. This video connection also contains audio so that the banker and customer can talk to each other about various financial services, products and information if the customer's customer operable transceiver is so equipped. "* Note: the image of a banker shown in a small area of the screen in Randle corresponds to presenting the genie video of the sales agent. The banker, as analyzed above corresponds to a sales agent who sells banks products/services and also presents audio signals) .

Regarding claim 22, Randle discloses that the method of claim 19 further comprising allowing the sales agent to direct web pages to the customer for viewing on the remote unit (see at least col.10, claim 17, "*The banking service platform of claim 1 wherein said access gateway provides access to the internet.*" , and col.3, line 66-col.4, line 17, "*....A client server 30 is operatively interconnected through communication controller 50 and the access gateway 40 to communicate with the transceivers R1, . . . , RN and the central information processor 20. The client server 30 handles processing and transmitting communications to and from the customer operable transceivers R1, . . . , RN and enables a customer using the transceivers R1, . . . , RN to access and control items within the categories of financial information, products and services maintained in the data storage files of the central information processor 20 of the bank and the financial and non-financial products and services of other providers P1, P2, . . . , PN that are accessible through the gateway 40 interconnected with bank central processor 20. As noted, the banking service platform 10 may also include a communications controller 50 interconnected to the client server 30 and the transceivers R1, . . . , RN to route communications between said transceiver R1, . . . , RN and said client server 30.*" . Note: Randle discloses that through gateway 40 an access is provided by the bank central process to Internet via a client-server architecture to other providers for presenting their products on the customer's screen and that would mean providing web pages from the other providers).

Regarding claim 23, Randle discloses that the method of claim 19 further comprising soliciting payment information from the customer (see at least col.4, lines 51-62. Note: When realizing payment for products sold it would be inherent to solicit payment information from the customer.).

Regarding claim 25, Randle teaches a method for enabling sales, comprising:
providing a plurality of trained sales agents, accepting an incoming call with information about an advertisement a potential customer was watching, directing said incoming call to one of said plurality of trained sales agents based on said information; directing a multimedia, interactive, videophone communication from said one of said plurality of trained sales agents to said customer including content select from the group consisting of web pages, prefilmed video clips, statistical data, still images, and a genie; and soliciting payment information from the customer to consummate the sale (see at least col.5, line 44-col.7, line 64. The limitations of claim 25 are closely parallel to the claims 19-23 analyzed above. Randle discloses the presence of plurality of sales agents in the form of bankers who sell bank products/services and the use of videophone in interactive communication between the customer and the sales agent and the use of video clips, images, data (see financial services information, which also includes statistical data), web pages by accessing the other providers on the Internet using a client-server architecture) .

Randle teaches that the method of claims 26 and 27 wherein directing said incoming call to one of said plurality of trained sales agents comprises directing said incoming call to a sales agent within a managed portal network or outside a managed portal network(see at least col.5, line 44-col.6, line 16. The banking service platform network including the gateway 40 corresponds to a portal network from where the customer's call is directed to any of the bankers or other provider's site on the Internet).

Regarding claim 28, see col.4, lines 51-62).

Regarding claim 31, see col.6, line 17-col.7, line 64. Randle discloses displaying advertisements/information about bank products/services and letting the consumer interact via video-phone to inquire about the advertisements/menu/information. The data/information being presented to the consumer in the advertisements correspond to the indicia embedded in the advertisement because these advertisements are being watched on a screen and the indicia embedded cannot refer to any indicia inserted in a physical product.

Regarding claim 34, see col.5, lines 55-67, and Fig.1, wherein use of ATM network, telephone, etc. teach the use of a wirebased network.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 24, 29-30 are rejected under 35 U.S.C. 103(a) as being obvious over Randle further in view of Official Notice.

Regarding claims 24 and 29-30, Randle discloses an interactive sales process comprising soliciting payment information for products sold as analyzed in claims 23 and 28 respectively. Randle further discloses ordering pizza or flowers (see at least col.4, line 51-col.5, line 4) but does not state generating shipping information for the customer after soliciting payment information and providing information relating to shipping. The examiner takes Official Notice of the notoriously well-known fact and its necessity of generating shipping information for the customer after closing a sale of a product and providing information related to shipping to the customer for the obvious reason of enabling delivery of the ordered product to the customer. In view of the Official Notice it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Randle to incorporate the feature of generating shipping information for the customer after soliciting payment information because, as explained above to ensure delivery of the ordered item to the customer's destination.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) Press release, " Health Hero Network, Inc. and openTV form alliance to bring health services to consumers through Interactive Television"; published on the webpage of Actv website, www.actv.com on March 21, 2000, extracted from this website on 5/18/2004 and Press release, " Nascar and Powerpuff girls go interactive at the Western show through interactivity powered by OpenTV"; published on the webpage of Actv website, www.actv.com on November 15, 2000, extracted from this website on 5/18/2004 disclose interactive communication via TV, shopping at home via interactive TV communication, seeking health related advises from a health specialist.

(ii) WO 97/31480 to Yuen discloses Interactive Television system (see at least abstract).

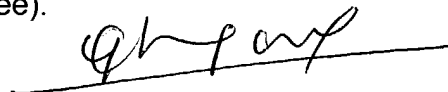
(iii) US 6,307,573 to Barros discloses a Graphic-information flow method and system for visually analyzing patterns and relationships wherein a server software looks up information relating to x,y location and then uses these results to determine which graphic files to retrieve and how to reconfigure the interactivity of the graphics such as imagemaps and then to send back the resulting GIF and imagemap coordinates to the client for display (see at least abstract and col.11, lines 6-25). **Barros reference renders the limitation " receiving x-y coordinate information, said x, y coordinate relating to a location selected on the remote unit, that is display screen, by the customer" in claim 33 obvious in view of Randle.**

(iii) US publications 2002/0032603 A1 to Yeiser, 2003/0056219 to Reichardt et al. and US Patent 6,560,581 to Fox et al. teaches a method and s system for carrying out shopping, bill payment via interactive television apparatus (see at least abstracts).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Examiner
Art Unit 3625

YCG
May 17, 2004